



# Federal Register

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**Tuesday,  
July 13, 2010**

**Book 2 of 2 Books  
Pages 40039–40718**

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## **Part II**

### **Department of Health and Human Services**

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**Centers for Medicare & Medicaid Services**

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**42 CFR Parts 405, 409, et al.  
Medicare Program; Payment Policies  
Under the Physician Fee Schedule and  
Other Revisions to Part B for CY 2011;  
Proposed Rule**

provided the example of time spent testing range of motion or muscle flexibility that was duplicated in commonly observed code pairs.

In the typical clinical scenario for therapy services, we believe that therapy services are misvalued for PFS payment when multiple services are furnished to a patient in a single session because duplicate clinical labor and supplies are included in the PE of the services furnished. We believe this duplication should be accounted for under the PFS, as we currently account for efficiencies in multiple surgical and multiple diagnostic imaging procedures furnished in a single session. Over the past 2 years, the AMA RUC has examined several services billed 90 percent or more of the time together as part of its potentially misvalued service initiative and, in several cases, created one code to describe the complete service, with a value that reflects the expected efficiencies. Notwithstanding the AMA RUC's analyses, in most cases it has not created one code to describe a complete therapy service, in part because many of the core therapy CPT codes are timed codes based on increments of treatment time.

Therefore, we are proposing a further step to implement section 1848(c)(2)(K) of the Act (as added by section 3134 of the ACA) that specifies that the Secretary shall identify potentially misvalued codes by examining multiple codes that are frequently billed in conjunction with furnishing a single service. For CY 2011 we are proposing an MPPR policy for the HCPCS codes listed in Table 18, specifically the separately payable "always therapy" services that are only paid by Medicare when furnished under a therapy plan of care. These services are designated "always therapy" services regardless of who furnishes them and always require therapy modifiers to be reported, specifically –GP (Services rendered under outpatient physical therapy plan of care); –GO (Services rendered under outpatient occupational therapy plan of care); or –GN (Services rendered under outpatient speech pathology plan of care). The therapy codes are available in a file on the CMS Web site at: <http://www.cms.gov/TherapyServices/>. We have excluded both contractor-priced and bundled codes from Table 18 because, under our proposal, an MPPR would not be applicable for "always therapy" services furnished in combination with these codes. In the case of bundled codes that are not separately paid, there are no explicit efficiencies in the direct PE to be reflected in payment for the second and subsequent therapy services furnished


c. Proposed CY 2011 Expansion of the MPPR Policy to Therapy Services

In the July 2009 GAO report entitled, "Medicare Physician Payments: Fees Could Better Reflect Efficiencies Achieved when Services are Provided Together," the GAO found efficiencies when multiple physical therapy services were furnished in one session and concluded that an MPPR policy could be appropriate for these services. In the report, the GAO noted that officials from the AMA RUC explained that time spent on pre-service and post-service therapy activities is spread across the number of services in a typical session in order to avoid duplication of the PE for the services. Nevertheless, the GAO found that there was duplication of certain activities in the intra-service period, and

to the patient on the same day. In the case of contractor-priced codes, there is no nationally established pricing that could be uniformly adjusted to reflect the expected efficiencies when multiple therapy services are furnished.

**TABLE 18—SEPARATELY PAYABLE “ALWAYS THERAPY” SERVICES SUBJECT TO THE PROPOSED CY 2011 MPPR POLICY\***

CPT/ HCPCS code	Short descriptor
92506 .....	Speech/hearing evaluation.
92507 .....	Speech/hearing therapy.
92508 .....	Speech/hearing therapy.
92526 .....	Oral function therapy.
92597 .....	Oral speech device eval.
92607 .....	Ex for speech device rx, 1hr.
92608 .....	Ex for speech device rx addl.
92609 .....	Use of speech device service.
96125 .....	Cognitive test by hc pro.
97001 .....	Pt evaluation.
97002 .....	Pt re-evaluation.
97003 .....	Ot evaluation.
97004 .....	Ot re-evaluation.
97010 .....	Hot or cold packs therapy.
97012 .....	Mechanical traction therapy.
97016 .....	Vasopneumatic device therapy.
97018 .....	Paraffin bath therapy.
97022 .....	Whirlpool therapy.
97024 .....	Diathermy eg, microwave.
97026 .....	Infrared therapy.
97028 .....	Ultraviolet therapy.
97032 .....	Electrical stimulation.
97033 .....	Electric current therapy.
97034 .....	Contrast bath therapy.
97035 .....	Ultrasound therapy.
97036 .....	Hydrotherapy.
97110 .....	Therapeutic exercises.
97112 .....	Neuromuscular reeducation.
97113 .....	Aquatic therapy/exercises.
97116 .....	Gait training therapy.
97124 .....	Massage therapy.
97140 .....	Manual therapy.
97150 .....	Group therapeutic procedures.
97530 .....	Therapeutic activities.
97533 .....	Sensory integration.
97535 .....	Self care mgmt training.
97537 .....	Community/work reintegration.
97542 .....	Wheelchair mgmt training.
97750 .....	Physical performance test.
97755 .....	Assistive technology assess.
97760 .....	Orthotic mgmt and training.
97761 .....	Prosthetic training.
97762 .....	C/o for orthotic/prosth use.
G0281 .....	Elec stim unattend for press.
G0283 .....	Elec stim other than wound.
G0329 .....	Electromagnetic tx for ulcers.

\*Excludes contractor-priced and bundled codes.

At this time, we are not proposing an MPPR policy for “sometimes therapy” services, specifically those services that may be furnished under a therapy plan of care or otherwise by physicians or NPPs as medical services. We believe that the care patterns are different for the latter group of services that may sometimes be furnished as therapy services, and note that they are less commonly furnished with multiple services in a single session than the “always therapy” services. In the discussion that follows, our reference to therapy services means those HCPCS codes designated annually as “always therapy” services by CMS.

Based on CY 2009 PFS claims data, we identified over 500 therapy service code pairs billed for the same patient in a single session. We then reviewed a sample of the most common therapy code pairs, specifically those high volume code pairs with more than 250,000 combined services per year, to examine the potential for duplication in the PE. These codes pairs represented more than half of the occurrences of therapy services billed together. While we acknowledge that the PE inputs per service for some therapy services were included in the direct PE database based on one-half of the total PE inputs required for two services provided in a single session, which would account for some duplication, this was not the case for all combinations of therapy services. Of the high volume therapy services examined, approximately one-fourth of the code pairs were not valued based on two services. In addition, we note that the CY 2009 PFS claims data show that when multiple therapy services are billed on a claim for the same date of service, the median number is four services per day. Therefore, even for those clinical labor times that may reflect the allocation of total time across two units of therapy services, we believe that some elements of the current PE inputs are duplicated based on current patterns of therapy service delivery where most multiple service claims involve delivery of more than 2 services in a session.

Duplicate labor activities currently included in the PE for the service period for these high volume pairs of therapy services are as follows: clean room/

equipment; education/instruction/counseling/coordinating home care; greet patient/provide gowning; obtain measurements, for example, ROM/strength/edema; and post-treatment patient assistance. The most common duplicate supply item included in the PE was the multispecialty visit pack. Examples of duplicated and unduplicated labor activities and supplies for two sample therapy code pairs and our estimates of potential clinically appropriate time and quantity reductions for multiple service sessions are displayed in Table 19. We note that CY 2009 PFS claims data for these sample code pairs include over 3.4 million pairs of CPT codes 97112 (Therapeutic procedure, 1 or more areas, each 15 minutes; neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and/or proprioception for sitting and/or standing activities) and 97110 (Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility) furnished by the same practitioner on the same day and over 500,000 pairs of CPT codes 97001 (Physical therapy evaluation) and 97140 (Manual therapy techniques (e.g., mobilization/manipulation, manual lymphatic drainage, manual traction), 1 or more regions, each 15 minutes).

**Table 19: Examples of Duplicate PE Inputs for Therapy Services That Should Be Accounted for When Multiple Services Are Furnished in One Session**

Example 1: CPT code 97112 (Therapeutic procedure, 1 or more areas, each 15 minutes; neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and/or proprioception for sitting and/or standing activities) and CPT code 97110 (Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility)

Staff description	Labor task description	Time period	Code A 97112 labor task time	Code B 97110 labor task time	Total minute reduction
Physical Therapy Aide	Clean room/equipment .....	Service Period, Post-Service.	1	1	1

Staff description	Labor task description	Time period	Code A 97112 labor task time	Code B 97110 labor task time	Total minute reduction
Physical Therapy As- sistant.	Education/instruction/counseling/coord home care.	Service Period, Post- Service.	2.5	2.5	2.5
Physical Therapy Aide	Greet patient/provide gowning .....	Service Period, Pre- Service.	1.5	1.5	1.5
Physical Therapy As- sistant.	Obtain measurements, <i>e.g.</i> , ROM/strength/ edema.	Service Period, Pre- Service.	1.5	1.5	1.5
Physical Therapy As- sistant.	Obtain vital signs .....	Service Period, Pre- Service.	1	1	1
Physical Therapy As- sistant.	Phone calls between visits with patient, family	Post-Service Period ...	1	1	1
Physical Therapy Aide	Post treatment patient assistance .....	Service Period, Post- Service.	1	1	1
Physical Therapy As- sistant.	Review/read documentation, plan of care, treatment goals.	Pre-Service Period .....	1.5	1.5	1.5
Physical Therapy Aide	Verify/Coordinate availability of resources/ equip.	Pre-Service Period .....	1.5	1.5	1.5

Supply description	Price	Code A 97112 quantity	Code B 97110 quantity	Code B 97110 quantity reduc- tion
pack, minimum multi-specialty visit .....	\$1.14	0.5	0.5	0
Thera-bands (6in width) .....	0.06	1.5	1.5	1.5

Example 2: CPT code 97001 (Physical therapy evaluation) and CPT Code 97140 (Manual therapy techniques (eg, mobilization/manipulation, manual lymphatic drainage, manual traction), 1 or more regions, each 15 minutes)

Staff description	Labor task description	Time period	Code A 97001 labor task time	Code B 97140 labor task time	Total minute reduction
Physical Therapy Aide	Clean room/equipment .....	Service Period, Post- Service.	3	1	1
Physical Therapy As- sistant.	Education/instruction/counseling/coord home care.	Service Period, Post- Service.	2	1	1
Physical Therapy Aide	Greet patient/provide gowning .....	Service Period, Pre- Service.	3	1.5	1.5
Physical Therapy As- sistant.	Obtain measurements, <i>e.g.</i> , ROM/strength/ edema.	Service Period, Pre- Service.	8	1.5	1.5
Physical Therapy As- sistant.	Obtain vital signs .....	Service Period, Pre- Service.	3	1	1
Physical Therapy As- sistant.	Phone calls between visits with patient, family	Post-Service Period ...	2	1	1
Physical Therapy As- sistant.	Review/read documentation, plan of care, treatment goals.	Pre-Service Period .....	1	.5	.5
Physical Therapy Aide	Verify/Coordinate availability of resources/ equip.	Pre-Service Period .....	3	1.5	1.5
Physical Therapy Aide	Prep and position patient .....	Service Period, Pre- Service.	2	0	0
Physical Therapy Aide	Prepare room, equipment, supplies .....	Service Period, Pre- Service.	2	0	0
Physical Therapy Aide	Post treatment assistance .....	Service Period, Post- Service.	0	1	0

Supply description	Price	Code A 97001 quantity	Code B 97140 quantity	Code B 97140 quantity reduc- tion
pack, minimum multi-specialty visit .....	\$1.14	1	0.5	0.5
lotion, message, unscented .....	0.158	0	0.5	0

We did not remove minutes for clinical labor tasks that were not duplicated. For example, for CPT code pair 97001 and 97140 the following tasks were not duplicated: Post treatment patient assistance; prep and position patient; and prepare room, equipment, and supplies. In addition, we did not remove any supply items that would be required for only one of the separate services because these would not be duplicated in the PE applicable to the combination of services. We estimated no reduction for equipment time, even though efficiencies would be expected for equipment that is used in both services when they are furnished together. Finally, a corresponding reduction to the indirect expenses is appropriate since indirect costs are allocated partially based on direct costs. For five high volume therapy code pairs that each occur over 2 million time in PFS claims for multiple therapy services and account for almost half of such claims, we estimated that the resulting reduction in the PE for the lower paying code would range from 28 to 56 percent.

In summary, given the duplicative clinical labor activities and supplies as shown in the code combination examples, we believe it would be appropriate to extend the 50 percent

MPPR policy that is currently applied to surgical services and the TC of imaging services, to the PE component of certain therapy services. Specifically, we are proposing to apply a 50 percent payment reduction to the PE component of the second and subsequent therapy services for multiple “always therapy” services furnished to a single patient in a single day. Because it would be difficult to determine the precise beginning and end of therapy sessions and we do not believe that beneficiaries would typically have more than one therapy session in a single day, we are proposing to apply the 50 percent MPPR policy to the PE component of subsequent therapy services provided to the same patient on the same day, rather than in the same session.

We note that many therapy services are time-based CPT codes, so multiple units of a single code may be billed for a single session that lasts for a longer period of time than one unit of the code. The proposed MPPR policy would apply to multiple units of the same therapy service, as well as to multiple different services, when furnished to the same patient on the same day. Full payment would be made for the service or unit with the highest PE and payment would be made at 50 percent of the PE component for the second and

subsequent procedures or units of the service. The work and malpractice components of the therapy service payment would not be reduced. For therapy services furnished by a group practice or “incident to” a physician’s service, the MPPR would apply to all “always therapy” services furnished to a patient on the same day, regardless of whether the services are provided in one therapy discipline or multiple disciplines, for example, physical therapy, occupational therapy, or speech-language pathology. The proposed CY 2011 MPPR policy would apply to both those services paid under the PFS that are furnished in the office setting and those services paid at the PFS rates that are furnished by outpatient hospitals, home health agencies, comprehensive outpatient rehabilitation facilities (CORFs), and other entities that are paid by Medicare for outpatient therapy services. Table 20 provides a sample calculation of the current and proposed CY 2011 payment for multiple therapy services furnished on the same day. For those services paid under the PFS, the PFS budget neutrality provision would apply so that the estimated reduced expenditures for therapy services would be redistributed to increase payment for other PFS services.

TABLE 20—SAMPLE PROPOSED PAYMENT CALCULATION FOR MULTIPLE THERAPY SERVICES FURNISHED TO A SINGLE PATIENT ON THE SAME DAY

	Procedure 1 Unit 1	Procedure 1 Unit 2	Procedure 2	Current total payment	Proposed CY 2011 total payment	Proposed payment calculation
Work .....	\$7.00	\$7.00	\$11.00	\$25.00	\$25.00	no reduction.
PE .....	10.00	10.00	8.00	28.00	19.00	$\$10 + (0.5 \times \$10) + (0.5 \times \$8)$ .
Malpractice .....	1.00	1.00	1.00	3.00	3.00	no reduction.
Total .....	18.00	18.00	20.00	56.00	47.00	$\$18 + \$7 + (0.5 \times \$10) + \$1 + \$11 + (0.5 \times \$8) + \$1$ .

We believe this proposed therapy MPPR policy would provide more appropriate payment for therapy services that are commonly furnished together by taking into account the duplicative clinical labor activities and supplies in the PE that are not furnished more than once in the single therapy session. This approach is consistent with the statutory requirement for the Secretary to identify, review, and adjust the relative values of potentially misvalued services under the PFS as specified by section 3134 of the ACA. We also believe this proposed policy is responsive to Congressional concerns about significant growth in therapy spending and to MedPAC and GAO recommendations regarding the

expansion of MPPR policies under the PFS to account for additional efficiencies. We note that paying more appropriately for therapy services based on PE relative values that are adjusted for the clinical scenario under which the services are furnished would result in reduced therapy expenditures, and beneficiaries would be able to receive more medically necessary outpatient therapy services before reaching the therapy cap. For a further discussion of potential alternatives to the therapy caps, we refer readers to section III.A.2. of this proposed rule.

**Addendum H--Proposed CY 2011 "Always Therapy" Services\* Subject to the  
Multiple Procedure Payment Reduction**

<b>HCPCS/CPT Code</b>	<b>Short Descriptor</b>
92506	Speech/hearing evaluation
92507	Speech/hearing therapy
92508	Speech/hearing therapy
92526	Oral function therapy
92597	Oral speech device eval
92607	Ex for speech device rx, 1hr
92608	Ex for speech device rx addl
92609	Use of speech device service
96125	Cognitive test by hc pro
97001	Pt evaluation
97002	Pt re-evaluation
97003	Ot evaluation
97004	Ot re-evaluation
97012	Mechanical traction therapy
97016	Vasopneumatic device therapy
97018	Paraffin bath therapy
97022	Whirlpool therapy
97024	Diathermy eg, microwave
97026	Infrared therapy
97028	Ultraviolet therapy
97032	Electrical stimulation
97033	Electric current therapy
97034	Contrast bath therapy
97035	Ultrasound therapy
97036	Hydrotherapy
97110	Therapeutic exercises
97112	Neuromuscular reeducation
97113	Aquatic therapy/exercises
97116	Gait training therapy
97124	Massage therapy
97140	Manual therapy
97150	Group therapeutic procedures
97530	Therapeutic activities
97533	Sensory integration
97535	Self care mngment training
97537	Community/work reintegration
97542	Wheelchair mngment training

<b>HCPCS/CPT Code</b>	<b>Short Descriptor</b>
97750	Physical performance test
97755	Assistive technology assess
97760	Orthotic mgmt and training
97761	Prosthetic training
97762	C/o for orthotic/prosth use
G0281	Elec stim unattend for press
G0283	Elec stim other than wound
G0329	Electromagntic tx for ulcers

\*Excludes contractor-priced codes and bundled codes.